

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MEHMET AKSOY,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 08-003 (GMS)
	:	
SELECTRUCKS OF AMERICA, LLC,	:	
	:	JURY TRIAL DEMANDED
Defendant.	:	

**ANSWER OF DEFENDANT, SELECTRUCKS OF AMERICA, LLC,
TO PLAINTIFF'S COMPLAINT WITH AFFIRMATIVE DEFENSES**

1. Answering defendant is without knowledge or information sufficient to form a belief as to the truth of this averment.

2. Admitted.

3. Admitted.

4. Admitted in part; denied in part. It is admitted that plaintiff obtained a Freightliner vehicle bearing Vehicle Identification Number 1FUJA6CG74LM10966. It is denied that plaintiff purchased the vehicle. By way of further answer, the contract speaks for itself.

5. Admitted in part; denied in part. It is admitted that plaintiff financed the purchase price of the vehicle through a finance lease agreement. The remaining averments contained in this paragraph are denied.

6. Denied.

7. Denied.

8. Denied.

9. Denied.

10. Denied.

11. Denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

16. Denied.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Plaintiff failed to provide proper, timely notice of his alleged revocation of acceptance to answering defendant in violation of 6 Del.C. §2-608 and 6 Del.C. §2A-517.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's alleged revocation of acceptance is barred and/or limited by his continued exercise of ownership and continued use of the vehicle

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's damages and/or losses, if any, were caused by the intervening and/or superseding acts and/or omissions of persons and/or entities for whose conduct answering defendant cannot be held liable.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred and/or limited by the applicable disclaimers of warranty and/or limitations of damages provisions.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims may be barred and/or limited by the Federal Odometer Act, Uniform Commercial Code and/or Delaware Consumer Fraud Act.

SEVENTH AFFIRMATIVE DEFENSE

Answering defendant breached no duty owed to the plaintiff.

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the applicable statute of limitations.

NINTH AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim upon which attorney's fees may be awarded.

TENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred and/or limited by his failure to fulfill the conditions precedent of any express limited warranty and/or by his failure to comply with the terms and conditions of any express limited warranty under which plaintiff asserts a cause of action.

ELEVENTH AFFIRMATIVE DEFENSE

No act or conduct on the part of answering defendant constituted the proximate cause of the injuries, damages and/or losses alleged in the Complaint.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to recover treble damages or any other civil penalties.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff failed to reasonably mitigate any damages and/or losses he allegedly sustained.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff waived any claims he may have had against answering defendant and/or is estopped from bringing such claims.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiff assumed the risk of his activities.

SIXTEENTH AFFIRMATIVE DEFENSE

Answering defendant reserves the right to assert additional affirmative defenses as further investigation and discovery may demonstrate.

WHEREFORE, defendant, SelecTrucks of America, LLC, denies all liability, demands that the Complaint be dismissed with prejudice and demands judgment in its favor and against plaintiff, together with costs and such other relief as the Court deems appropriate.

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

**BY: /s/ Tracy A. Burleigh (ID#: 3609)
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Attorney for Defendant,
SelecTrucks of America, LLC**

DATED: February 8, 2008

06215-102/15/581507.v1

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CERTIFICATION OF SERVICE

I hereby certify that I have served upon all persons listed below a true and correct copy of the **ANSWER OF DEFENDANT, SELECTRUCKS OF AMERICA, LLC, TO PLAINTIFF'S COMPLAINT WITH AFFIRMATIVE DEFENSES** in the above-captioned matter this date via CM/ECF and regular mail.

Rick S. Miller, Esquire
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P.O. Box 1351
Wilmington, DE 19899-1351

**MARSHALL, DENNEHEY, WARNER,
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